

ARGUMENTS AND REMARKS

Claims 1-26 stand rejected under the judicially-created doctrine of obviousness-type double patenting over Claims 1-7 of U.S. Patent No. 5732950.

Claims 1-26 also stand rejected under the judicially-created doctrine of obviousness-type double patenting over Claims 1-17 of U.S. Patent No. 6007066.

Applicants have submitted herewith a Terminal Disclaimer and Applicants submit that this Terminal Disclaimer makes moot the rejection of Claims 1-26 for obviousness-type double patenting. Applicants request that the Examiner withdraw this rejection.

Claims 1-26 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with regard to the recitation of the phrase "each partial hand having the same cards" (underlining by the Examiner).

The independent claims 1, 14 and 21 have each been amended by adding thereto in section (c) the words "by suit and rank". This clarifies that when the cards are dealt each partial hand has identical cards -- the same cards are dealt in each hand -- by suit and rank. Support for this amendment is clear from the specification and Applicant requests the Examiner withdraw this rejection based on the amendment to the claims.

Claim 22 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with regard to the recitation of the phrase "a two pair and a pair." The Examiner contends that this wording is unclear. Applicant respectfully traverses this rejection.

Claim 22 has been amended to correct a grammatical error in the recitation of the Markush group.

In Claim 22, a Markush group is set out of the various preselected cards that can be used as the partial hand. Among the various members of this Markush group are the following two preselected card groups: a Two Pair is one of the preselected card groups and a Pair is another of the preselected card groups. Each of these preselected card groups are recognized as conventional poker hand rankings and the meaning of "a Two Pair" as well as the meaning of "a Pair" would be clear to a person skilled in the art.

Applicant requests that the Examiner withdraw the rejection of Claim 22 under 35 U.S.C. § 112, second paragraph. If the Examiner still considers this claim to be unclear, the Examiner is requested to specify exactly what the Examiner finds unclear about this claim.

Claims 1, 4, 14, 21 and 26 stand rejected under 35 U.S.C. § 102 as being anticipated by Williams. Applicant respectfully

traverses this rejection.

In order for a rejection under 35 U.S.C. § 102 to be proper, each and every step of the claim must be disclosed in the reference. Applicant submits that the reference to Williams does not disclose each and every step of Claims 1, 4, 14, 21 and 26 and therefore the rejection of these claims as anticipated by Williams is not proper.

Williams discloses a draw poker game. Two face up community cards are dealt and a plurality of hands with face down cards are dealt. The player may discard and replace none, one or both of the community cards. After the draw step is completed, the community cards are used with each of the hands of the face down cards to make final five card hands. There is simply no disclosure in Williams of a stud poker game. Draw poker permits the discarding and replacement of cards while stud poker does not permit the discarding and replacement of cards.

Claim 1 recites a method of playing a stud poker game. There is no discard and replacement step. In Claim 1, a plurality of partial hands are dealt, with each partial hand having the same cards by suit and rank. In Williams, there is only one partial hand dealt which comprises two community cards that may be discarded and replaced.

Because Williams does not disclose each and every step of Claim 1, the rejection of Claim 1 under 35 U.S.C. § 102 is improper.

Claim 4 depends from Claim 1 and is submitted to be allowable for the same reasons that Claim 1 is allowable.

Claim 14 recites a method of playing a stud poker game. There is no discard and replacement step. In Claim 14, a plurality of ~~partial hands are dealt~~, with each partial hand having the same cards by suit and rank. In Williams, there is only one partial hand dealt which comprises two community cards that may be discarded and replaced.

Because Williams does not disclose each and every step of Claim 14, the rejection of Claim 14 under 35 U.S.C. § 102 is improper.

Claim 21 recites a method of playing a stud poker game. There is no discard and replacement step. In Claim 21, a plurality of partial hands are dealt, with each partial hand having the same cards by suit and rank. In Williams, there is only one partial hand dealt which comprises two community cards that may be discarded and replaced.

Because Williams does not disclose each and every step of Claim 21, the rejection of Claim 21 under 35 U.S.C. § 102 is

improper.

Claim 26 depends from Claim 21 and is submitted to be allowable for the same reasons that Claim 21 is allowable.

Applicant requests that the Examiner reconsider the rejection of Claims 1, 4, 14, 21 and 26 under 35 U.S.C. § 102 as being anticipated by Williams.

Claims 2, 3, 5, 8-13, 15-17, 20 and 22 stand rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Johnson. Applicant respectfully traverses this rejection.

Johnson is relied upon by the Examiner for the teaching that a partial stud hand may be dealt with fewer or greater than five cards. What the Examiner fails to do is explain how the disclosure of Johnson would have been obviously combined with the disclosure of Williams to render the invention of these Claims 2, 3, 5, 8-13, 15-17, 20 and 22 unpatentable. As discussed above, Williams discloses a draw poker game. Johnson discloses a stud poker game. The Examiner has not made a *prima facie* showing of how the use of partial stud poker hands in Johnson would be relevant to the Williams draw poker game. If the partial stud poker hands of Johnson were substituted into the Williams draw poker game, this would eliminate the draw step of the Williams draw poker game. Additionally, if the partial stud poker hands of Johnson were

substituted into the Williams method of play, Williams would no longer have a single starting hand, but rather multiple starting hands all having different cards.

Claims 2, 3, 5, 8-13, 15-17, 20 and 22 all depend from either Claim 1, Claim 14 or Claim 21 and are submitted to be allowable for the same reasons that Claim 1, Claim 14 and Claim 21 are allowable.

Applicant requests that the Examiner reconsider the rejection of Claims 2, 3, 5, 8-13, 15-17, 20 and 22 under 35 U.S.C. § 103 as being unpatentable over Williams in view of Johnson.

Claims 6, 7, 18, 19, 23 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Yoseloff. Applicant respectfully traverses this rejection.

Yoseloff is relied upon by the Examiner for the teaching that the additional cards are dealt from a depleted deck. However, there is nothing in Yoseloff that overcomes the deficiencies of Williams in that Williams is a draw poker game and Claims 6, 7, 18, 19, 23 and 24 are directed at a stud poker game. Claims 6, 7, 18, 19, 23 and 24 all depend from either Claim 1, Claim 14 or Claim 21 and are submitted to be allowable for the same reasons that Claim 1, Claim 14 and Claim 21 are allowable.

Applicant requests that the Examiner reconsider the rejection of Claims 6, 7, 18, 19, 23 and 24 under 35 U.S.C. § 103 as being

unpatentable over Williams in view of Yoseloff.

Claim 25 stands rejected under 35 U.S.C. § 103 as being unpatentable over Williams in view of Kadlic. Applicant respectfully traverses this rejection.

Kadlic is relied upon by the Examiner for the teaching of selecting one of the partial hands. Kadlic, however like Williams, is a draw poker game. There is nothing in Kadlic that overcomes the deficiencies of Williams in that Williams is a draw poker game and Claims 25 is directed at a stud poker game. The combination of Kadlic with Williams still results in a draw poker game.

Claim 25 depends from Claim 21 and is submitted to be allowable for the same reasons that Claim 21 is allowable.

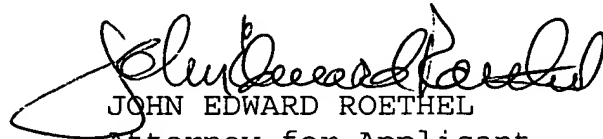
Applicant requests that the Examiner reconsider the rejection of Claim 25 under 35 U.S.C. § 103 as being unpatentable over Williams in view of Kadlic.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Applicant submits that all of the claims in this application are allowable over the prior art of record from the first Office Action. Applicant requests that the Examiner reconsider his rejection of Claims 1-26 in light of the arguments made above and

in light of the Terminal Disclaimer and find that this application is now in condition for allowance. If the Examiner has any further questions regarding this application, the Examiner is requested to call undersigned counsel.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John Edward Roethel", is written over the printed name.

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claim 1 has been amended to read as follows:

-- Claim 1. A method of playing a stud poker card game in which a final hand has at least five cards comprising:

- a) the player selecting to play at least two hands;
- b) a player making a wager which is allocated among the hands selected to be played by the player;
- c) dealing and displaying face up a number of partial hands of less than five cards, the number of partial hands corresponding to the number of hands selected to be played by the player, each partial hand having the same cards by suit and rank;
- d) dealing and displaying face up additional cards to each hand to complete each hand so that each final hand has at least five cards;
- e) determining the poker hand ranking of each final hand; and
- f) paying the player a pre-established amount based on the amount of the wager on each hand if the final hand comprises a predetermined poker hand ranking. --